

IN THE SMALL CLAIMS DEPARTMENT OF  
COWLITZ COUNTY DISTRICT COURTSMALL CLAIM NUMBER: 14 s 4

TIMOTHY DIETZ  
 Plaintiff  
2503 34TH AVE  
 Address  
LONGVIEW WA  
 City State  
98632 360-442-9832  
 Zip Code Phone

MIDLAND CREDIT MANAGEMENT INC.  
 Defendant  
8875 AERO DR SUITE 200  
 Address  
SAN DIEGO CA  
 City State  
92123 617-240-2377  
 Zip Code Phone

## CLAIM

TIMOTHY DIETZ, Plaintiff, has appeared at the above entitled Court and states that the above named Defendant(s) owes the Plaintiff the sum of \$ 1500 which became due or owing on 1/5/2013 (date).  
 The amount owing is for:

Auto Damages	_____	Date of Accident	_____
Wages	_____	Back Rent	_____
Rent Deposit	_____	Goods Sold	_____
Property Damage	_____	Other	<u>TCPA</u>

COWLITZ COUNTY  
DISTRICT COURT

2014 JAN -3

FILED

[Signature]  
 Plaintiff Signature / Title (if filing on behalf of Partnership, LLC, PLCC, Corporation)

Subscribed and sworn to before me this 3rd day of JANUARY, 2014.

Carolyn Miller  
 Court Clerk/Notary

State of Washington }

ss:

County of Cowlitz }

To: MIDLAND CREDIT MANAGEMENT, Defendant(s). This claim for \$ 1500 has been filed against you. You are required to deny this claim either in person or in writing. Your denial of the claim must be received no later than 4:30 P.M. on 2-3-14.

If your answer is that you do not owe all or part of the money that is claimed, the case will be set for hearing at a later date. **IF YOU FAIL TO APPEAR AND ANSWER THE CLAIM, A DEFAULT JUDGMENT WILL BE ENTERED AGAINST YOU FOR THE AMOUNT OF THE CLAIM PLUS COURT COSTS.**

The District Court is located on the second floor of the Hall of Justice, 312 SW First, Kelso, WA 98626. Office hours are 8:30 A.M. to 5:00 P.M., Monday through Friday except legal holidays.

Issued: 1.3.14Clerk: Carolyn MillerEXHIBIT 1  
Page 1 of 10

IN THE SMALL CLAIMS DEPARTMENT OF  
COWLITZ COUNTY DISTRICT COURT

TIMOTHY DIETZ,

Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT,  
INC,

Defendant.

Small Claims No.: 14 S 4

VERIFIED COMPLAINT FOR RELIEF

RECEIVED

2014 JAN -8 AM 11:17

THURSTON COUNTY  
SHERIFF

Plaintiff, Timothy Dietz (Hereinafter "Mr. Dietz"), sues Defendant, Midland Credit Management, INC. (Hereinafter "MCM"), and for his complaint alleges:

**NATURE OF THE ACTION**

1. This is a complaint for money damages.
2. MCM has violated the Telephone Consumer Protection Act (Hereinafter "TCPA") 47 USC § 227 *et seq.* Mr. Dietz contends that MCM has violated such laws in attempts to collect an alleged but nonexistent debt.

**PARTIES**

Verified Complaint for Relief  
14 S 4

Timothy Dietz  
2503 34<sup>th</sup> Ave  
Longview WA 98632  
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- 1 3. Mr. Dietz, is a citizen of Cowlitz County, Washington.
- 2 4. Upon information and belief MCM is a foreign corporation, licensed as a collection
- 3 agency and authorized to do business in Washington State with a registered agent in
- 4 Washington who is Corporation Service Company, 300 Deschutes Way SW STE 304,
- 5 Tumwater, WA, 98501.

### 6 JURISDICTION AND VENUE

- 7 5. This Court has jurisdiction to grant relief pursuant to Washington State Statute RCW §
- 8 12.40.010 in that this is an action for damages less than \$5,000.00 exclusive of interest,
- 9 fees, and costs, and only legal relief is sought.
- 10 6. Venue is proper in Cowlitz County, Washington, pursuant to Washington State Statute
- 11 RCW § 4.12.020(3), because the causes of action accrued in that county.
- 12 7. Jurisdiction of this Court arises under 47 U.S.C. § 227(b)(3) and Washington State Statute
- 13 RCW § 4.12.025.
- 14 8. Venue is proper pursuant to Washington State Statute RCW § 3.66.040. Venue in this
- 15 county is proper in that Mr. Dietz resides here, MCM transacts business here, and the
- 16 conduct complained of occurred here.
- 17 9. Venue is proper in Cowlitz County, Washington, pursuant to Washington State Statute
- 18 RCW § 4.12.025, because MCM intentionally reached into that county, availing itself of
- 19 the protection of the laws of Washington State, and MCM acts in that county gave rise to
- 20 the cause of action asserted herein.
- 21 10. This Court has jurisdiction over MCM pursuant to Washington State Statute RCW §
- 22 3.66.040(8) because MCM engages in business within this state, to wit debt collection,
- 23 and its business within this state gave rise to the causes of action asserted herein.
- 24
- 25

Verified Complaint for Relief  
14 S 4

Timothy Dietz  
2503 34<sup>th</sup> Ave  
Longview WA 98632  
360-238-1010

EXHIBIT 1  
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1 11. This Court has jurisdiction over MCM pursuant to Washington State Statute RCW §  
2 4.12.020(3) because MCM caused injury to a person within this state, to wit, Mr. Dietz,  
3 while it was engaged in service activities, to wit, debt collection, within this state.

4 12. This Court has jurisdiction over MCM pursuant to Washington State Statute RCW §  
5 3.66.040(8) because MCM carries on business in this State.

6 13. Defendant has violated the TCPA § 227 *et seq.* MCM has violated the act by calling Mr.  
7 Dietz's cell phone.  
8

9 14. Venue is proper in Cowlitz County, Washington, because the acts giving rise to the cause  
10 of action took place within that county. Particularly, the offending communications were  
11 all made and directed into that County.

## 12 BACKGROUND

13 15. On or about January 5, 2013 at about 10:20 am, MCM called Mr. Dietz's cell phone  
14 without prior permission or for emergency purposes. (Exhibit 'A')

15 16. The communications in question here are all related to the collection of a non-existent  
16 consumer debt.

17 17. The acts alleged herein all took place in Cowlitz County, in that the offending call was  
18 received there.

19 18. Mr. Dietz has no prior or present established relationship with MCM.

20 19. Mr. Dietz has never given MCM express permission to call his cellular phone.

21 20. Mr. Dietz has no contractual obligation to pay MCM.  
22

## 23 VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT 47

### 24 U.S.C. § 227(b)(1)(A)(iii) WILLFUL NON-COMPLIANCE BY MIDLAND

### 25 CREDIT MANAGEMENT, INC.

Verified Complaint for Relief  
14 S 4

Timothy Dietz  
2503 34<sup>th</sup> Ave  
Longview WA 98632  
360-480-1010  
EXHIBIT 1

21. Mr. Dietz re-alleges 1 through 20.

22. MCM has demonstrated willful or knowing non-compliance with 47 U.S.C. § 227(b)(1)(A)(iii) by using an automatic telephone dialing system (ATDS) to call Mr. Dietz's cell phone, which is assigned to a cellular telephone service contrary to 47 U.S.C. § 227(b)(1)(A)(iii) which states in relevant part;

(1) PROHIBITIONS.— it shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) To make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) To any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

**WHEREFORE**, based on facts set forth in the above count, Plaintiff demands:

(a) Statutory damages of \$1500.00, payable by MCM, pursuant to TCPA 47 U.S.C § 227(c)(5)(C), exclusive of interest, costs, and attorneys' fees.

(b) Such other relief as may be just.

Respectfully Submitted,

  
Timothy Dietz

**VERIFICATION OF COMPLAINT**

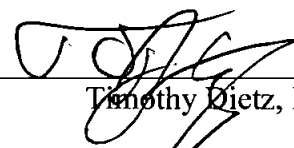
STATE OF WASHINGTON  
COUNTY OF COWLITZ

Verified Complaint for Relief  
14 S 4

Timothy Dietz  
2503 34<sup>th</sup> Ave  
Longview WA 98632  
Page 5 of 10

1 **BEFORE ME** personally appeared Timothy Dietz who, being by me first duly sworn  
2 and identified in accordance with Washington law, deposes and says:

- 3 1. My name is Timothy Dietz, plaintiff herein.  
4 2. I have read and understood the attached foregoing complaint filed herein, and each  
5 fact alleged therein is true and correct of my own personal knowledge

6   
Timothy Dietz, Plaintiff

7 SWORN TO and subscribed before me this 4<sup>th</sup> day of January, 2014.

8   
9 Notary Public

10 My commission expires: 11-1-2014



IN THE SMALL CLAIMS DEPARTMENT OF  
COWLITZ COUNTY DISTRICT COURT

TIMOTHY DIETZ,

Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT,  
INC,

Defendants.

Small Claims No.: 14 S 4

AFFIDAVIT IN SUPPORT OF  
EXHIBITS

Now comes the Affiant, Timothy Dietz, a citizen of the United States and the State of Washington over the age of 21 years, and declares as follows, under penalty of perjury:

1. Attached hereto as **EXHIBIT A** is a copy of a picture of my cell phone that I snapped with my own personal camera, that bears the phone number of an incoming call from Defendant Midland Credit Management, Inc.

I hereby affirm that I have read and understood the foregoing Affidavit herein, and that the foregoing Affidavit is true and correct of my own personal knowledge.

Dated this 4th Day of January, 2014.

  
Timothy Dietz, Affiant

NOTARY'S VERIFICATION

STATE OF WASHINGTON  
COUNTY OF COWLITZ

BEFORE ME personally appeared Timothy Dietz the above-named Affiant who, being by me first duly sworn and identified in accordance with Washington law, and he acknowledged his signature on this Affidavit in my presence.

AND THE AFFIANT SAYETH NOT

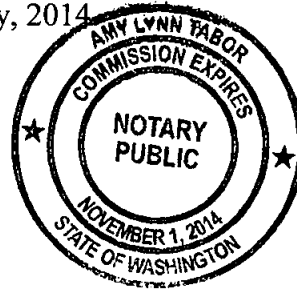
AFFIDAVIT  
14 S 4

2014 JAN -8 AM 11:16  
**RECEIVED**  
THURSTON COUNTY  
SHERIFF  
Timothy Dietz  
2503 34<sup>th</sup> Ave  
Longview WA 99832  
360-442-9832  
Page 7 of 10

1  
2 SWORN TO and subscribed before me this 4th day of January, 2014

3 Amy Lynn Tabor  
4 Notary Public

5 My commission expires: 11-1-2014



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AFFIDAVIT  
14 S 4

Timothy Dietz  
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Longview WA 98632  
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EXHIBIT 1  
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**EXHIBIT**

**A**

**PICTURE OF CELL  
PHONE**

